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Page: 1
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CONFIDENTIAL

PAGE 01 STATE 280506 151728Z
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| | NSAE-00 | NSCE-00 | OIC-02 | OIG-04 | OMB-01 | PA-01 | PM-00 |
| | PRS-01 | P-01 | SNP-00 | SP-00 | SR-00 | STR-01 | TRSE-00 |
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TO AMEMBASSY KIGALI IMMEDIATE
INFO UN SECURITY COUNCIL COLLECTIVE PRIORITY
USMISSION USUN NEW YORK PRIORITY
AMEMBASSY THE HAGUE PRIORITY
USMISSION GENEVA PRIORITY

C O N F I D E N T I A L STATE 280506

E.O. 12356: DECL: OADR
TAGS: PHUM, PREL, PREF, AORC, RW
SUBJECT: RESOLUTION ESTABLISHING WAR CRIMES TRIBUNAL FOR
RWANDA

CONFIDENTIAL

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PAGE 02 STATE 280506 151728Z

1. CONFIDENTIAL - ENTIRE TEXT.

2. THE USG AND OTHER SECURITY COUNCIL MEMBERS HAVE BEEN
CONSULTING INTENSIVELY THIS WEEK TO COMPLETE WORK ON A
COUNCIL RESOLUTION THAT WOULD CREATE THE RWANDA WAR CRIMES
TRIBUNAL. IT IS IMPORTANT TO ADOPT THIS RESOLUTION AS
SOON AS POSSIBLE, SO THAT THE NEW PROSECUTOR CAN BEGIN

Current Class: CONFIDENTIAL

Page: 1

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: ARCHIE M BOLSTER
DATE/CASE ID: 19 MAR 2004 200303979

UNCLASSIFIED

UNCLASSIFIED

Current Class: CONFIDENTIAL
Current Handling: n/a
Document Number: 1994STATE280506

Page: 2

Channel: n/a

Case Number: 200303979

PUTTING TOGETHER HIS STAFF FOR RWANDA PROSECUTIONS AND INTENSIFY THE INVESTIGATIVE WORK THAT HAS ALREADY STARTED. WE UNDERSTAND THAT A REVISED TEXT OF THE RESOLUTION HAS NOW BEEN INTRODUCED BY THE US, UK AND NEW ZEALAND, AND WE STRONGLY DESIRE ITS ADOPTION AS SOON AS POSSIBLE THIS COMING WEEK.

3. USUN HAS CONSULTED AT SOME LENGTH WITH THE RWANDAN DELEGATION TO ACCOMMODATE RWANDAN CONCERNS TO THE GREATEST EXTENT POSSIBLE, CONSISTENT WITH THE FUNDAMENTAL OBJECTIVES OF THE EXERCISE AND WITH PAST PRACTICE. WE HAVE, HOWEVER, NOT BEEN ABLE TO ACCOMMODATE A NUMBER OF RWANDAN DEMANDS THAT WOULD HAVE THE EFFECT OF UNACCEPTABLY LIMITING THE TRIBUNAL'S JURISDICTION OR SUBORDINATING THE PROCESS TO RWANDAN NATIONAL CONTROL. IT IS CRITICAL THAT THIS PROCESS BE SEEN AS IMPARTIAL AND CONSISTENT WITH INTERNATIONAL PRACTICE, AND NOT BE SEEN AS TILTING TOWARD ONE OF THE PARTIES INVOLVED. AT THE SAME TIME, IT WOULD BE IMPORTANT (BOTH FOR THE TRIBUNAL AND FOR RWANDA) TO HAVE RWANDAN CONCURRENCE IN THE RESOLUTION TO BE ADOPTED.

4. WE THEREFORE REQUEST THAT YOU MAKE IMMEDIATE CONTACT WITH RWANDAN OFFICIALS AT AN APPROPRIATELY HIGH LEVEL,
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PAGE 03 STATE 280506 151728Z
USING THE POINTS IN PARA 5 BELOW.

5. BEGIN TALKING POINTS:

-- AS YOU KNOW, THE USG AND OTHER MEMBERS OF THE SECURITY COUNCIL HAVE BEEN WORKING WITH YOUR DELEGATION IN NEW YORK TO ADOPT A RESOLUTION CREATING THE RWANDA WAR CRIMES TRIBUNAL AS SOON AS POSSIBLE. WE ARE VERY GRATEFUL FOR THE LEADERSHIP YOU HAVE DEMONSTRATED IN MOVING TO ESTABLISH THE TRIBUNAL AND FOR THE PERSONAL SUPPORT OF YOUR PRESIDENT FOR THIS OBJECTIVE. AS YOU KNOW, IT IS ESSENTIAL THAT THIS PROCESS NOT BE FURTHER DELAYED.

-- WE HAVE TRIED TO ACCOMMODATE TO THE MAXIMUM POSSIBLE EXTENT THE CONCERNS THAT HAVE BEEN RAISED THIS WEEK BY YOUR REPRESENTATIVE IN NEW YORK ABOUT THE TEXT OF THE PROPOSED RESOLUTION AND STATUTE FOR THE NEW TRIBUNAL. HOWEVER, SEVERAL OF YOUR PROPOSALS, WOULD HAVE DEVIATED FROM ACCEPTED INTERNATIONAL PRACTICE OR THE

Current Class: CONFIDENTIAL

Page: 2

UNCLASSIFIED

UNCLASSIFIED

Current Class: CONFIDENTIAL
Current Handling: n/a
Document Number: 1994STATE280506

Page: 3

Channel: n/a

Case Number: 200303979

RECOMMENDATIONS OF THE COMMISSION OF EXPERTS, OR APPEARED
TO COMPROMISE THE IMPARTIALITY OF THE TRIBUNAL.

-- FOR EXAMPLE, THE COUNCIL CANNOT ACCEPT A PREMATURE
TIME LIMIT ON THE TRIBUNAL'S JURISDICTION OR THE LIMIT THE
IMPRISONMENT OF CONVICTED PERSONS TO RWANDAN CONTROL.
SUCH PROPOSALS WOULD BE INCONSISTENT WITH THE PROVISIONS
ALREADY ADOPTED IN THE CASE OF THE FORMER YUGOSLAVIA AND
WOULD GIVE THE APPEARANCE OF ALLOWING ONE PARTY TO THE
CONFLICT TO CONTROL THE PROCESS.

-- THE US, UK AND NEW ZEALAND HAVE NOW INTRODUCED A
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PAGE 04 STATE 280506 151728Z
REVISED RESOLUTION TEXT THAT WE BELIEVE WILL COMMAND THE
ACCEPTANCE OF THE REST OF THE SECURITY COUNCIL, AND WE
EXPECT TO MOVE IT TO ADOPTION AS SOON AS POSSIBLE DURING
THE COMING WEEK. WE URGE YOUR GOVERNMENT TO ACCEPT THIS
TEXT AND NOT INSIST ON CHANGES THAT COULD BE TAKEN AS AN
ATTEMPT BY RWANDA TO EXEMPT ITSELF FROM THIS PROCESS.

-- WE WILL OF COURSE CONTINUE TO CONSULT AND COOPERATE
FULLY WITH YOUR GOVERNMENT AS THIS PROCESS UNFOLDS, AND TO
DEAL WITH YOUR CONCERNS TO THE MAXIMUM EXTENT WE CAN,
CONSISTENT WITH AN EFFECTIVE AND IMPARTIAL TRIBUNAL.
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Current Class: CONFIDENTIAL

Page: 3

UNCLASSIFIED